

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

FEDERAL DEPOSIT INSURANCE	)	
CORPORATION AS RECEIVER FOR	)	
BROADWAY BANK,	)	
	)	
Plaintiff,	)	
	)	Case No. 12 CV 1665
v.	)	
	)	Judge John F. Grady
	)	
DEMETRIS GIANNOULIAS, GEORGE	)	Magistrate Judge Daniel Martin
GIANNOULIAS, JAMES MCMAHON,	)	
SEAN CONLON, STEVEN DRY, DONNA	)	
ZAGORSKI, STEVEN BALOURDOS,	)	
GLORIA SGUROS and ANTHONY	)	
D'COSTA,	)	
Defendants.	)	

**FEDERAL DEPOSIT INSURANCE CORP.'S BRIEF  
ADDRESSING FDIC v. WILLETS' INAPPLICABILITY**

*FDIC v. Willets*, 2014 U.S. Dist. LEXIS 131804 (E.D.N.C. September 10, 2014), does not affect the propriety of protecting the FDIC-C from producing additional ESI to Defendants. The decision has no precedential value and offers no support for Defendants' position here. *Willetts* was a ruling on a motion for summary judgment, not the proper scope of non-party discovery, and it involved an interpretation of North Carolina law, not the law of Illinois. The opinion contains no discussion of the adequacy of discovery of any party or non-party. There is no indication of what discovery, if any, the *Willetts* defendants received from the FDIC-C. In all likelihood, it was far less than that already produced by the FDIC-C in this case - 45,000 pages of exam reports, examiner and regulatory work papers, and over 10,000 pages of ESI in accordance with search terms negotiated by the FDIC-C and Defendants.

The Court should grant the FDIC-C's motion for protective order and deny the Giannoulias Defendants' Motion to Compel regarding the subpoena dated June 3, 2013 because: (1) the March 21, 2013 order did not expand the scope of the case beyond the 20 Loss Loans; it required the FDIC-R to supplement four interrogatories, which it has done, "because such information relates directly to the FDIC-R's claims regarding the 20 Loss Loans." Dock. No. 206 at 10; (2) based on agreed-upon search parameters, the FDIC-C has produced all ESI (as well as the regulatory work papers) relevant to the 20 Loss Loans; and (3) to require the FDIC-C, a non-party to this litigation, to review and produce additional ESI would be harassing and unduly burdensome. *Willets* has no bearing on this question at all.

Dated: October 21, 2014

Respectfully submitted,

FEDERAL DEPOSIT INSURANCE  
CORPORATION

By: Mary Anne Benden  
One of Its Attorneys

Mary Anne Benden  
Senior Regional Attorney  
Federal Deposit Insurance Corporation  
300 S. Riverside Plaza – Suite 1700  
Chicago, Illinois 60606  
(312) 382-6510  
(312) 382-6674 (facsimile)

**CERTIFICATE OF SERVICE**

The undersigned certifies that a copy of the foregoing was served on all counsel of record via e-mail on October 21, 2014.

Mary Anne Bexader

**FDIC v. Giannoulias, et al.**  
**Case No. 12 CV 1665**

**SERVICE LIST**

William L. Charron  
Bryan T. Mohler  
Pryor Cashman LLP  
7 Times Square  
New York, NY 10036  
Telephone: (212) 421-4100  
[bmohler@pryorcashman.com](mailto:bmohler@pryorcashman.com)  
[wcharron@pryorcashman.com](mailto:wcharron@pryorcashman.com)

Eric Y. Choi  
Neal, Gerber & Eisenberg LLP  
Two North LaSalle Street  
Suite 1700  
Chicago, Illinois 60602  
Telephone: (312) 269-8000  
[echoi@ngelaw.com](mailto:echoi@ngelaw.com)

*Counsel for Defendants Demetris  
Giannoulias and George Giannoulias*

Robert J. Ambrose  
David C. Van Dyke  
Scott Frost  
Joseph W. Barber  
Donna Rizzuto  
Howard and Howard PLLC  
200 South Michigan Avenue  
Suite 1100  
Chicago, Illinois 60604  
Telephone: (312) 372-4000  
[RAmbrose@howardandhoward.com](mailto:RAmbrose@howardandhoward.com)  
[DVanDyke@howardandhoward.com](mailto:DVanDyke@howardandhoward.com)  
[SFrost@howardandhoward.com](mailto:SFrost@howardandhoward.com)  
[JWBarber@howardandhoward.com](mailto:JWBarber@howardandhoward.com)  
[drizzuto@howardandhoward.com](mailto:drizzuto@howardandhoward.com)

*Counsel for Defendant James McMahon*

Randall M. Lending  
Rachel T. Copenhaver  
Vedder Price P.C.  
222 North LaSalle Street  
Suite 2600  
Chicago, Illinois 60601  
Telephone: (312) 609-7500  
[relending@vedderprice.com](mailto:relending@vedderprice.com)  
[rcopenhaver@vedderprice.com](mailto:rcopenhaver@vedderprice.com)

*Counsel for Defendants Sean Conlon, Steven  
Dry, Dona Zagorski, Steven Balourdos,  
Anthony D'Costa and Gloria Sguros*

Susan G. Feibus  
F. Thomas Hecht  
Dean J. Polales  
Richard H. Tilghman  
Seth A. Horvath  
Ungaretti & Harris  
70 West Madison  
Suite 3500  
Chicago, IL 60602  
[sgfeibus@uhlaw.com](mailto:sgfeibus@uhlaw.com)  
[fthecht@uhlaw.com](mailto:fthecht@uhlaw.com)  
[djpolales@uhlaw.com](mailto:djpolales@uhlaw.com)  
[rtilghman@uhlaw.com](mailto:rtilghman@uhlaw.com)  
[sahorvath@uhlaw.com](mailto:sahorvath@uhlaw.com)

*Counsel for Plaintiff FDIC, Receiver for  
Broadway Bank*